

1 MOYES SELLERS & HENDRICKS  
2 Keith L. Hendricks (No. 012750)  
3 Louis D. Lopez (No. 021191)  
4 Matthew A. Lensch (No. 024725)  
5 1850 North Central Avenue, Suite 1100  
6 Phoenix, Arizona 85004  
7 Telephone: (602) 604-2141  
8 khendricks@law-msh.com  
9 llopez@law-msh.com  
10 mlensch@law-msh.com  
11 Attorneys for Plaintiff  
12 Grand Canyon Ranch, LLC,  
13 f.k.a. Grand Canyon West Ranch, LLC

UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

11 Grand Canyon Ranch, LLC, an Arizona  
12 limited liability company, f.k.a. Grand  
Canyon West Ranch, LLC.

13 Plaintiff.

V

18 || Defendants.

Case No. 3:03-cv-02496-NVW

**PLAINTIFF'S BENCH  
MEMORANDUM ON DISCHARGE  
OF WATER UNDER ARIZONA LAW**

20 Plaintiff Grand Canyon Ranch, LLC, formerly known as Grand Canyon West  
21 Ranch, LLC (“Grand Canyon Ranch”), provides the following bench memorandum on the  
22 status of Arizona law related to the artificial concentration and discharge of water. The  
23 Court may recall that this issue arose during Mr. Scott Schmidgall’s testimony on  
24 September 25, 2013. Mr. Schmidgall testified that the construction of the road effectively  
25 creates a dam that obstructs the natural drainage of the land. The Bureau of Indian Affairs  
26 has installed drainage culverts (i.e., pipes) underneath the road that collect surface waters

1 from the Bureau of Land Management's upstream property and discharge the water in two  
 2 locations on Grand Canyon Ranch's property. One of the current drainage discharge  
 3 locations is in the immediate path of Grand Canyon Ranch's buildings, generator, and fuel  
 4 storage. Black letter Arizona law does not countenance such conduct:

5 One may not divert waters flowing in a natural channel upon the lands of his  
 6 neighbor who is under no duty to receive them, and a landowner has no  
 7 right to collect surface waters in artificial channels and discharge it in large  
 quantities onto the land of an adjoining owner to his damage.

8 *Kirkpatrick v. Butler*, 14 Ariz. App. 377, 380, 483 P.2d 790, 793 (App. 1971) (internal  
 9 citations omitted); *see also City of Tucson v. Dunseath*, 15 Ariz. 355, 364, 139 P. 177, 181  
 10 (1914) (finding city "guilty of an actionable wrong" where it caused water to discharge  
 11 onto another's property "in a greater volume and with added force."); *Campbell Estates,*  
 12 *Inc. v. Bates*, 21 Ariz. App. 162, 169, 517 P.2d 515, 522 (App. 1973) (upholding award of  
 13 punitive damages where "Defendants constructed . . . [a] drainage ditch dumping all  
 14 drainage directly onto plaintiff's property. They did not consult or make arrangements  
 15 with plaintiffs before doing this. They dug the ditch first and asked questions later.").

16 DATED this 25th day of September, 2013

17 **MOYES SELLERS & HENDRICKS**

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 19  
 20 */s/ Keith L. Hendricks*  
 21 Keith L. Hendricks  
 22 Louis D. Lopez  
 23 Matthew A. Lensch  
 24 Attorneys for Plaintiffs  
 25 Grand Canyon Ranch, LLC,  
 26 f.k.a. Grand Canyon West Ranch, LLC

## CERTIFICATE OF SERVICE

I hereby certify that, on September 25, 2013, I electronically transmitted the attached document to the Clerk of the Court using the CM/ECF System which will send notification of such filing and transmittal of a Notice of Electronic Filing to all CM/ECF registrants.

*/s/ Donna Navarro*